

CITY OF ALAMO HEIGHTS
CITY COUNCIL
January 24, 2011

A regular meeting of the City Council of the City of Alamo Heights, Texas was held at the Council Chambers, 6120 Broadway, at 5:30 p.m. on Monday, January 24, 2011.

Present and composing a quorum were:

Mayor Louis Cooper
Mayor Pro-Tempore Stan McCormick
Councilmember Bobby Rosenthal
Councilmember Fred Prassel
Councilmember Elliot Weser
Councilmember John Savage

Also attending were:

Interim City Manager/Public Works Director Shawn P. Eddy
City Attorney Mike Brenan
Information Systems Manager Marian Ramirez
Finance Director Cynthia Barr
Planning & Development Services Director Brian Chandler
City Secretary Jennifer Reyna
Fire Chief Buddy Kuhn
Police Chief Rick Pruitt

Absent was:

Human Resource Manager Judith E. Surratt

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Mayor Louis Cooper called the meeting to order at 5:34 p.m.

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Councilmember Bobby Rosenthal recognized the presence of Boy Scouts of America, Den 7 Webelos, Pack # 59 in the audience. He explained they were present to observe the Council meeting as a requirement for their Citizenship in the Community merit badge.

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Mayor Cooper asked City Council for any corrections to the minutes of the December 13, 2010, City Council Meeting. A motion was made by Mayor Pro Tem Stan McCormick to approve the minutes of December 13, 2010. The motion was seconded by Councilmember Elliot Weser and passed by unanimous vote.

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Item # 2 City Manager's Report

a. Proposed cancellation of the March 14, 2011 City Council meeting due to Spring Break and April 11, 2011 City Council meeting due to conflict with Fiesta River Parade

Interim City Manager Shawn P. Eddy proposed the cancellation of two Council meetings: March 14th and April 11th due to potential conflicts with Spring Break and the Fiesta River Parade, respectively.

Mayor Cooper proposed that the meeting scheduled during Spring break should not be cancelled and only cancel the April 11th City Council meeting. Council agreed.

b. Announcement of executive search to hire new City Manager

Mr. Eddy announced that an informational flyer for the City Manager position has been prepared. Upon Council approval, Human Resources Manager Judie Surratt will initiate an executive search for the position. The job announcement and flyer are recommended to be posted on the Texas Municipal League (TML), International City/County Management Association (ICMA) and on the City's websites. City Council will establish the process by which candidates will be interviewed and evaluated. Mr. Eddy thanked Information Systems Manager Marian Ramirez for creating the informational flyer.

Mayor Cooper stated the evaluation process will be considered at a different time to possibly include City staff, community, and the City's major stakeholders' input. Council agreed.

c. Submission of charter amendment petition to limit building height

Mr. Eddy announced a petition was submitted by Bill Kiel to the City Secretary on February 10, 2011. The petition is to amend the City Charter to limit building height to a maximum of 40 feet to the midpoint of the roof. Mr. Eddy stated that for a proposed charter amendment, 5% of registered voters (5,156) are required to validate a petition. He noted that 550 signatures were valid out of the total, 627 signatures that were submitted.

The petition will be considered for the May 2011 election and presented at the February 14, 2011 City Council meeting.

d. Community Garden Update

Mr. Eddy provided an update to the Council on the Community Garden, which is located at the southeast corner of Ogden Lane and Acacia Street. He informed Council that volunteers have constructed the beds (Eagle Scout project), filled several beds with soil and have installed the irrigation system created by an Eagle Scout candidate. Mr. Eddy encouraged interested residents who want to get involved with the Community Garden to please contact Gregg Chislett at gnchislett@me.com.

e. Code Inspection and Compliance Update

Mr. Eddy announced the Fire Department had mailed notices to all commercial property owners to inform them of pending annual fire inspections. He informed Council that all issues related to annual fire inspections of multi-family structures were being satisfactorily resolved. Mr. Eddy added that the owner of a multi-family property that is in need of significant repairs is cooperating with City staff to determine whether the property will be repaired or demolished. He shared that tenants of the multi-family property are being relocated to other rental units pending resolution of this issue.

f. Engineering Consultant Services

Mr. Eddy stated that Espey Consultants have been contracted to provide consultant engineering services. Espey Consultants reviewed studies and plans related to the City of San Antonio's pending drainage improvement project at Broadway and Hildebrand to determine if the project would adversely affect drainage in Alamo Heights. The independent review found that the project would not adversely affect Alamo Heights.

The following citizens spoke on these various matters:

Bill Kiel, resident, asked about the next steps of the charter amendment petition, Item No. 2C. He commented that if the petition is not considered for the May 14, 2011 election, there would be a challenge. Mr. Kiel stated the lack of ordering an election would cause irreputable harm because it would be in two years that this item may be considered again if the Initiative and Referendum is adopted in 2011. He expressed concern since the item was scheduled as a Closed Session item in this agenda.

Mr. Eddy responded to Mr. Kiel that the election for the petition would be ordered at the February 14th, 2011 City Council meeting.

Sarah Reveley, resident, expressed concern on the compliance issues specifically with all of Trebes Sasser's properties. She provided a brief history on code compliance issues related to Mr. Sasser's properties as she has obtained information through previous open records requests.

Mr. Eddy clarified that all the compliance issues from the last conducted Fire inspection for Treehouse Apartments have been resolved and currently, the multi-property owner will comply with outstanding issues within the next 30-45 days.

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Item # 3 Texas Municipal Retirement System (TMRS) Update

Regional Manager Anthony Mills with the Texas Municipal Retirement System (TMRS) made a PowerPoint presentation that included history, allocation, legislation issues, and the current retirement plan for the City of Alamo Heights. TRMS Actuary Leslee Hardy was also present.

Mr. Mills informed Council that cities were given an eight-year phase-in to pay higher contribution rates and currently, the City of Alamo Heights pays the full annual contribution rate for employees. He explained that the City is enrolled in the 30-year amortization schedule, similar to a 30-year mortgage loan. Highlighted was the 2011 interest allocation and graphs of asset allocation were displayed. He provided a history of the different ratios that has been paid by the City of Alamo Heights since 1951. He assumed that rates were increased in order retain employees and remain competitive as being part of the San Antonio metropolitan. The TMRS plan for Alamo Heights was summarized and the proposed fund structure was explained. Mr. Mills noted that Alamo Heights is soundly financed.

Mr. Mills summarized Senate Bill 350, which is related to the restructuring of fund obligations and accounts of TMRS and related accounting procedures that may affect the City of Alamo Height's current structure. Mr. Mills added that after a restructure, the City of Alamo Heights is projected to see a rate reduction of approximately 0.60% and funded ratio increase of approximately 10%, upon passage of a proposed 2011 legislative bill, Senate Bill 350. Detailed information on rate reduction will be included in the last quarter letter of 2011.

Councilmember John Savage stated that the City of Alamo Heights has paid at an 8% contribution rate; however, including credit service, cost of living adjustments (COLA) and being current, it brings the municipality's total percentage contribution rate at 18.04%. He briefly explained the three different accounts: City's, Employee, and Annuity. He noted the City is funded at 41% and reasonably the City does not need to be fully funded, so the city does not assume all the risks.

Mayor Pro Tem McCormick asked about the retirement plans for the Cities of Houston, Dallas and Ft. Worth. Mr. Mills responded that the Cities of Austin, Dallas, El Paso, Ft. Worth, Galveston, and Houston have their own retirement plan. He stated San Antonio is the largest city that is a member of TMRS.

Mr. Mills concluded his presentation and announced that detailed information, publications, and resources are available at www.tmrs.com.

Councilmember Elliot Weser expressed his appreciation to TMRS staff for their attendance and presentation. He noted that funding of a municipality's retirement plan comes from taxpayers' dollars and asked if additional adjustments related to service credits is liable to the current or prior city. He stated that recently he read an article regarding Retirement Plans that awarded generous bonuses to employees who manage retirement accounts.

Mr. Mills thanked the Council for their time. He stated that TMRS is mindful on any municipality's plan as the retirement plan is coordinated with City staff and the City needs to deliberate and sustain what is acceptable. Mr. Mills explained the updated transfer credit benefit which the City of Alamo Heights has adopted. He explained the transfer credit component and stated updated service credit is an additional liability to the current municipality employer. Mr. Mills stated he was not aware of bonuses made to consultants

as it may have been another retirement system, not TMRS. He will double-check, research and may speak at another time on it; otherwise he is not aware of any bonuses.

Mayor Cooper thanked Mr. Mills for the presentation.

Mr. Eddy stated quarterly updates are scheduled for Council presentation; however, he suggested to Council that due to proposed legislation changes the next update should be presented in June or July 2011. City Council agreed.

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Citizens To Be Heard Concerning Non-Agenda Items

Bill Kiel, resident, expressed concern on Mayor Cooper's letter that was published in the Alamo Heights Neighborhood Association's publication, *The Advocate*. He commented that the letter stated there are strict rules that prohibit the construction of high rise buildings with which he disagreed. Mr. Kiel noted that height exceptions can be approved by 3 Councilmembers' votes. He referenced Code of Ordinances - Chapter 3, Zoning, Section 3-87, Specific Use Permits, that a building height limit is not specifically provided. Mr. Kiel stated the petition gives the voters the right to decide on a building height limit.

Sarah Reveley, resident, expressed concern on the cancellation of the January 10th meeting. She referred to website, www.myalamoheights.com as many blogs have been contributed and bloggers created a list of agenda items.

John Joseph, resident, former President of Alamo Heights Neighborhood Association (AHNA), introduced Fernando Centeno, as the new President of the AHNA.

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Consent Items

Item # 5 Mayor Cooper read the following caption.

**Request for permission to refund duplicate or erroneous
property tax payments to the following**

BAC Tax Service	210 W. Fair Oaks Drive	\$1,919.58
BAC Tax Service	135 Tuxedo Avenue	\$1,098.82
BAC Tax Service	163 Katherine Court	\$1,025.44
Kenneth & Barbara Harrison	110 La Jara Boulevard	\$ 677.00
Nandini Mandlik & Theodore Wu	120 Barilla Place	<u>\$1,625.41</u>
Total		\$6,346.25

A motion for approval was made by Mayor Pro Tem Stan McCormick. The motion was seconded by Councilmember Fred Prassel and passed by unanimous vote.

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Public Hearing

Item # 6 Mayor Cooper read the following caption.

Presentation of the proposed charter amendment for initiative and referendum

Interim City Manager Shawn P. Eddy made a PowerPoint Presentation that included background information, proposed charter amendment, exceptions and petitions.

The proposed amendment includes Article XIX of the City Charter currently titled "Recall of Officers" would be amended and retitled "Initiative, Referendum and Recall" to allow qualified electors of the city to initiate and rescind at the polls an ordinance approved by the City Council and the petition and procedures for initiative, referendum and recall of elective officers would be revised to be consistent with the Texas Elections Code.

Mr. Eddy highlighted that Initiative and Referendum ordinances adopted or approved by the electors would be published and could be amended or repealed by the Council within 6 months of adoption. No recall petition could be filed against any elective officer of the City of Alamo Heights within 6 months after his/her election, nor within 6 months after an election for such officer's recall. He stated this provision could be amended. Mr. Eddy noted that capital projects were not included as an exception and referred to Mr. Garza. He stated another public hearing is scheduled for the February 14th City Council meeting.

Attorney Frank Garza was present, who was hired to assist in the charter amendment process.

Councilmember Weser asked if the amount of days to validate a petition should be modified to reflect 5 business days. He asked Mr. Garza if it was common to exercise an Initiative and Referendum and then in 6 months, the ordinance may be rescinded by Council.

Mr. Garza confirmed State law provides only 5 days to validate a submitted petition. He also confirmed that a specific time period, such as 6 months, is included in half of the municipalities' charter, ranging from 6 months to 1 year and it is Council's decision to determine the timeframe. Mr. Garza explained that when appropriating money, citizens have approved the appropriations for a specific project and language may be specific to include capital projects.

There was a discussion among Council regarding the issues of public health and safety to be considered as an exception. Mr. Garza noted that the topic is general and is not found in other municipal charters. Mr. Eddy provided an example, fluoride. He explained that fluoridation of the water was an example in which the voters were fairly divided. Exempting issues related to public safety would prevent an initiative to add fluoride at a significant cost only to later remove it later after a referendum on the same issue.

Mayor Cooper opened the public hearing at 7:21 p.m.

Sarah Reveley, resident, asked about the authority of Initiative, Referendum and Recall have and expressed concern on the lack of community meetings.

Mr. Eddy responded to Ms. Reveley that information has been on the City's website and comments were only received from 2 citizens.

Mr. Garza provided examples of Initiative and Referendum, with the City of San Antonio on the Applewhite Water Reservoir project and Council term limits, both handled by petitions.

There was a discussion among Council to conduct a special Council meeting or another Communication and Governance Committee meeting to further discuss proposed amendments. Council agreed to conduct a special meeting on Monday, January 31, 2011.

Councilmember Prassel stated that 500 signatures is an ideal amount for the signature requirement and may be further discussed at the next public meeting.

Mr. Eddy shared that the draft ordinance is still available on the City's website under the News Archives and an email blast would be sent about the special meeting.

John Joseph, resident, expressed content in the Council pursuing the Initiative, Referendum and Recall. He asked Mr. Garza if the language "from 6 months later Council could rescind" is included, may an Initiative be rescinded by Council after 6 months of adoption. He expressed opposition of the proposed charter amendment, if this language is included as it notes that citizens' efforts are not worthwhile.

Councilmember Weser stated that people may vote in good faith and if there is a significant problem, there must be checks and balances for everything and language should be included to reverse the action item, after a reasonable amount of time, or perhaps not at all.

Bill Kiel, resident, expressed opposition in the authority that Council may rescind an ordinance within 6 months after ordinance adoption. He expressed support in the 500 signatures as he surpassed that number in circulating a recent petition. He requested that a voter's registration number replace dates of birth as a petition requirement.

Councilmember Weser asked Mr. Garza at what point is a petition not considered valid because of possible violation of State law.

Mr. Garza responded that the municipality will proceed with the election and an Attorney General's opinion is sought. A declaratory suit is filed to ask the Judge to decide if the issue is legal or illegal; at that time, a petition will be considered invalid.

Laura Theurer, resident, stated that a public hearing was clearly noted on the January 24th meeting agenda notice. She recommended Council submit the Initiative, Referendum and Recall for the May 2011 election.

Frank Centeno, resident, stated he was a former resident of San Antonio and recalled that the Applewhite Water Reservoir project failed but was appealed twice.

Mayor Cooper closed the public hearing at 7:47 p.m.

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Items for Individual Consideration

Item # 7 Mayor Cooper read the following caption.

ORDINANCE NO. 1894

**AN ORDINANCE APPROVING MAYOR'S
NOMINATION OF JENNIFER CRONE TO THE
CITY'S BOARD OF ADJUSTMENT**

Planning and Development Services Director Brian Chandler presented a PowerPoint presentation that included background information on the candidate and the interview process.

A motion for approval was made by Councilmember Rosenthal. The motion was seconded by Councilmember Weser and passed by unanimous vote.

Item # 8 Mayor Cooper read the following caption.

ORDINANCE NO. 1895

**AN ORDINANCE APPROVING THE TRAILS CONCEPT
PLAN AND AUTHORIZING THE INTERIM CITY
MANAGER TO EXECUTE A MEMORANDUM OF
UNDERSTANDING WITH THE FRIENDS OF THE
HONDONDO CREEK TRAILS OF ALAMO HEIGHTS**

Mr. Chandler made a PowerPoint presentation that included background information, maps and a summary of the memorandum of understanding (MOU).

Mayor Cooper asked about the consideration of providing bathrooms.

Sally Smith, Founder, Friends of the Hondondo Creek Trails, stated that the existing set of City-owned bathrooms at the trails parking lot is only opened on special events. She informed Council that other cities do not provide bathrooms because of liability and maintenance issues. She expressed opposition in building or maintaining a bathroom and welcomed discussion.

The following citizens spoke on this matter:

Shirley Bartels, Chairman, Nature Trails of the San Antonio Audubon Society, requested to specify San Antonio Audubon Society. She distributed to Council an article, dated August 13, 1964, which mentioned there was an agreement with the City of Alamo Heights and an Audubon society to develop the areas for birdwatchers. She preferred the agreement to serve as a record of file, as the referenced agreement in the 1964 article had not been located. She provided a brief update on the Nature Trails, noting that 27 University of Trinity students and 35 students employed with the San Antonio Zoo volunteered in the Trails, recently.

Mayor Cooper asked Ms. Bartels with the City's collaboration with Friends of the Hondondo Creek if she could foresee any conflicts.

Ms. Bartels responded no, they are appreciative of the Friends' efforts.

Mayor Pro Tem McCormick observed that Council would have a final approval on rules and procedures. Mr. Chandler stated the intent of the MOU, is that prior to implementation of each phase, the phase must be comprehensively designed, reviewed and presented to Council for approval.

Ms. Bartels introduced Dahn Windhorn, President of the San Antonio Audubon Society.

Lissa Martinez, resident, expressed concern on the City's responsibilities in the agreement. She stated the responsible party should be specific in determining projects. She requested the City should implement an archeological site as Antiquity acts requires approval. She reminded Council that with tropical storm Hermine, tree debris was encountered and recommended the City to share their responsibilities in tree brush clean-up. She expressed that city volunteer insurance is needed and recommended another community meeting as people may still be unaware of the trails.

Councilmember Prassel expressed concern on costs of security or park rangers.

Mr. Chandler responded security may be addressed at that point and the MOU's intent is to increase foot traffic and usage. Mr. Eddy clarified that the Friends of the Hondondo Creek Trails are responsible for improvements that are made and focused on the extension of Hondondo Creek. Mr. Eddy stated he does not anticipate security needs.

There was a discussion among Council to consider any modifications to the MOU. Mr. Eddy stated the archeological issue may be included; however, digging should not occur frequently. He mentioned that Ms. Martinez' concerns are adequately covered or are not within the scope of the MOU. He informed Council that the City's insurance currently extends coverage to volunteers.

Mayor Pro Tem McCormick asked about citizens making contributions to the 501c3 organization.

Councilmember Rosenthal responded it would be made to the Friends of the Hondondo Creek Trails. Mr. Eddy confirmed all funding will be handled by the Friends of

the Hondondo Creek Trails. He reminded Council that all projects will be presented for Council approval.

A motion for approval was made by Councilmember Prassel. The motion was seconded by Councilmember Savage and passed by unanimous vote.

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Item # 9 Mayor Cooper read the following caption.

RESOLUTION NO. 2011R - 023

A Resolution authorizing the filing for an application with the Office of the Governor, Criminal Justice Division, for a procurement grant to purchase replacement radio equipment and/or upgrade some current radio equipment to meet P25 compliance standards and designating the Chief of Police as the grantee's authorized official

Police Chief Rick Pruitt made a PowerPoint Presentation that included background information and coordination on the grant project.

The Police Department prepared an application for a grant from the Office of the Governor, Criminal Justice Division, through the Alamo Area Council of Governments (AACOG), for the grant period September 1, 2011 through August 31, 2012. The project provides for replacement radio equipment meeting P25 compliance standards thereby enhancing coordination, time response, efficient and effective communications during natural disasters and catastrophic events. Police Chief Pruitt stated this grant will not provide funding for the replacement of Fire Department radio inventory.

Police Chief Pruitt stated Lieutenant Cindy Pruitt has accomplished the prerequisite grant requirements and is coordinating the grant application submission process with the AACOG grant coordinator. She is exploring another grant project to provide funding for the animal care program which in turn may provide relief to the budget allowing funds to be redirected to the radio project.

Councilmember Weser asked how the communication system will interact with the Fire Department.

Police Chief Pruitt stated the P25 compliance standards will also be mandated for the Fire Department and ample time will be provided to change to a new communication system. He noted that new grant opportunities should also be available.

Mr. Eddy commended Police Chief Pruitt and his staff for being proactive.

A motion to adopt the Resolution was made by Councilmember Savage. The motion was seconded by Councilmember Rosenthal and passed by unanimous vote.

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Closed Session

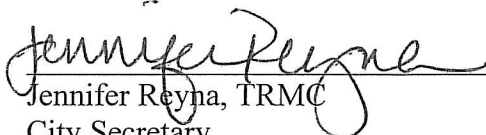
At 8:30 p.m., Mayor Cooper adjourned the regular City Council meeting to conduct closed meetings as authorized by Section 551.071 of the Texas Government Code to consult with the City Attorney on a matter in which the duty of the attorney to the governmental body under the Texas Disciplinary Rules of Professional Conduct of the State Bar of Texas clearly conflicts with the Texas Open Meetings Act and to consult with the City Attorney concerning contemplated litigation, both subjects regarding a proposed charter amendment relating to the height of buildings in the City.

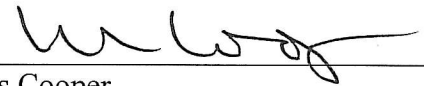
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Mayor Cooper reconvened the regular meeting at 8:59 p.m. There was no action taken as a result of the closed session.

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There being no further business, a motion was made by Mayor Pro Tem McCormick to adjourn the meeting. The motion was seconded by Councilmember Prassel and passed by unanimous vote. Mayor Cooper adjourned the meeting at 9:00 p.m.


Jennifer Reyna, TRMC
City Secretary


Louis Cooper
Mayor